

**AGREEMENT BETWEEN THE CITY OF CALEXICO,
THE COMMUNITY REDEVELOPMENT AGENCY
AND THE CALEXICO CHAMBER OF COMMERCE**

2008-2009 SERVICES AGREEMENT

This Agreement is entered into by and between the City of Calexico, a municipal corporation (hereinafter called "City"), the Community Redevelopment Agency of the City of Calexico, a municipal entity (hereafter referred to as "Agency"), and the Calexico Chamber of Commerce, a nonprofit California corporation (hereinafter called "Chamber") and made effective as of July 1, 2006.

RECITALS

WHEREAS, the City/Agency is desirous of promoting its advantages as a business, educational, cultural, recreational, industrial and residential center, disseminating information relative thereto, and properly following up and giving consideration to inquiries made from time to time relative to the various activities of the City/Agency; and

WHEREAS, the Chamber is a nonprofit organization designed to advance the commercial, financial, industrial, and civic interests of the Calexico community and to serve as an information bureau and a research and promotion medium;

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. SCOPE OF SERVICES

The Chamber shall serve as an information bureau and referral agency to its members and all contacts requesting information and shall disseminate City/Agency publications and materials provided by the City/Agency. In addition, the Chamber shall work in good faith to accomplish services described in Exhibit A, Scope of Services addressing ONE major task (Calexico ; Business Retention & Expansion,, attached hereto and incorporated herein.

2. COMPENSATION

Subject to and in accordance with the term and provisions of said Agreement, the City/Agency agrees to fund Chamber for mutually agreed upon services, as set forth in Exhibit A, a total sum of \$73,000 per year, payable in monthly installments of \$ 18,250⁰⁰ for which the City/Agency will receive official recognition at the highest level of Chamber of Commerce membership benefits along with primary logo placement at all Chamber events. The annual total sum payment shall be subject to approval on an a quarterly basis by the City Council/Agency Board upon recommendation by the City Manager/Executive Director.. City/Agency funds are not meant to pay for salaries and benefits and proper accounting shall identify fund expenditures in direct implementation of programs identified in Exhibit A. Chamber Mixers or social events shall not be a justifiable use of City/Agency funds, nor cultural concerts or activities more appropriately funded via the Cultural Arts branch of the City.

3. RECORDS AND AUDITS

The Chamber shall provide quarterly financial reports and an annual audited financial statement to the City Manager/Executive Director by an independent certified CPA mutually agreed upon by both City/Agency and Chamber of Commerce Executive Director. Upon reasonable request by the City Manager/Executive Director and by appointment with the Executive Director of the Chamber, financial information will be reviewed with the City Manager/Executive Director or his/her designated representative.

4. TERM OF AGREEMENT

- (a) The term of Agreement shall be on an annual basis for budgeting purposes. Each fiscal year, as part of the budget process, City/Agency will consider whether to budget a service Agreement and the funding level appropriate. This Agreement may be terminated at will by the City for cause on the part of the Chamber with no further monies to be paid to the Chamber.
- (b) This Agreement shall be effective as of the 1st day of July 2008, and shall automatically terminate on June 30, 2009 and must be renewed by mutual consent of the parties. A thirty-day (30) grace period to July 30th will automatically extend the current agreement should the agreement not be renewed by the termination date.

5. REPORTS

The Chamber shall submit written activity reports, on a quarterly basis, to the City Manager/Executive Director and a presentation to the City Council relating to the scope of service outlined herein as well as the activities undertaken as specified in this contract. The report shall recount the Chamber's services and its activities during the quarterly reporting period.

Within ninety-days (90) of the close of the City/Agency's fiscal year or termination of this Agreement, Chamber shall submit to City/Agency a fiscal year expenditure report with a detailed accounting of all expenditures related to the scope of services provided for by this Agreement, including the receipt and appropriated expenditure of compensation by the Chamber hereunder.

6. INDEMNIFICATION

The Chamber agrees to defend and hold the City/Agency and all its officers, agents, employees and representatives harmless from and against any and all claims brought for or on account of personal injury, including death, claims for breach of confidentiality, or business and property damage, which may arise from the Chamber's willful or negligent acts, errors or omissions under this agreement. The Chamber agrees to defend and indemnify the City/Agency and its officers, agents, employees, and representatives from any suits or actions at law of equity for damages caused, or alleged to have been caused, by reason of the Chamber's willful or negligent acts, errors or omissions.

7. INSURANCE

The Chamber shall, throughout the duration of this Agreement, maintain comprehensive general liability and property damage insurance covering all operations hereunder of Chamber, its agents and employees, including but not limited to premises and automobile, with minimum coverage of One Million Dollars (\$1,000,000) combined single limits. The policy shall name the City/Agency, inclusive of each of its officers and employees, as an additional insured, and a Certificate of Insurance shall be furnished to the City/Agency at 608 Heber Avenue, Calexico, CA 922231. Said policy or policies shall provide thirty-day (30) notice to City/Agency of cancellation or of a material change. The Chamber shall also carry worker's compensation insurance in a statutory amount, evidence of which is to be furnished to the City/Agency in the form, of a Certificate of Insurance. All such policies shall be in a form satisfactory to the City Attorney.

8. INDEPENDENT CONTRACTOR

The parties agree that the Chamber is an independent contractor and shall not in any way be considered to be an employee of the City/Agency of the City of Calexico, nor shall any representative or employee of the Chamber represent or imply directly or indirectly that he or she represents or is authorized to speak for or bind the City.

9. NOTICES

- (a) Any notice may be served upon either party by delivering it in person, or by depositing it in a U.S. mail deposit box with the postage thereon fully prepaid, and addressed to the party at the address set forth below:

City: City Manager/Executive Director
City of Calexico
608 Heber Avenue, Calexico, CA 92231

Chamber: Executive Director
Chamber of Commerce
1100 Imperial Avenue, Calexico, CA 92231

- (b) Any notice given hereunder shall be deemed effective in the case of personal delivery, upon receipt thereof, or, in the case of mailing, at the moment of deposit in the course of transmission with the United States Postal Service, with the exception of a notice of termination which shall be effective 3 days following deposit with the United States Postal Service.

10. ASSIGNMENT

This is a professional services contract for unique services. Neither the Chamber nor the City/Agency may assign or transfer any rights or obligations arising from this Agreement, or any part thereof, without the prior written consent of the other party.

12. AMENDMENTS

The provisions of this Agreement may be amended only by an instrument in writing duly executed by each of the parties hereto.

13. INTEGRATION

This writing constitutes the entire and complete Agreement between the parties hereto relative to the subject hereof. No party relies upon any warranty or representation, express or implied not specifically set forth herein.

14. WAIVER

Waiver of a breach or default under this Agreement shall not constitute a continuing waiver of a subsequent breach of the same or any other provision under this Agreement.

15. SEVERABILITY

If any term or portion of this Agreement is held to be invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall continue in full force and effect.

16. CONTROLLING LAW VENUE

This Agreement and all matters relating to it shall be governed by the laws of the State of California and any action brought relating to this Agreement shall be held exclusively in a state court in the County of Imperial.

17. MEDIATION

The parties agree to make a good faith attempt to resolve any disputes arising out of this Agreement through mediation prior to commencing litigation. The parties shall mutually agree upon the mediator and share the costs of mediation equally. If the parties are unable to agree upon a mediator, the dispute shall be submitted to JAMS/ENDISPUTE ("JAMS") or its successor in interest. JAMS shall provide the parties with the names of five qualified mediators. Each party shall have the option to strike two of the five mediators selected by JAMS and thereafter the mediator remaining shall hear the dispute. If the dispute remains unresolved after mediation, either party may commence litigation.

18. EXECUTION

This Agreement may be executed in several counterparts, each of which shall constitute one and the same instrument and shall become binding upon the parties when at least one copy hereof shall have been signed by both parties hereto. In approving this Agreement, it shall not be necessary to produce or account for more than one such counterpart.

19. AUTHORITY TO ENTER AGREEMENT

Chamber has all requisite power and authority to conduct its business and to execute, deliver, and perform the Agreement. Each party warrants that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and to bind each respective party.

20. PROHIBITED INTERESTS

Chamber maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Chamber, to solicit or secure this Agreement. Further, Chamber warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Chamber, any fee, commission, percentage, brokerage fee, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty City/Agency shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer, or employee of City/Agency, during the term of his or her service with City/Agency, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

21. EQUAL OPPORTUNITY EMPLOYMENT

Chamber represents that it is an equal opportunity employer and it shall not discriminate against any subcontractor, employee, or applicant for employment because of race, religion, color, national origin, handicap, ancestry, sex, or age. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on

_____, 2008

City of Calexico
Community Redevelopment Agency

Calexico Chamber of Commerce

By: _____
Mayor/Chairman

By: _____
President

Attest:

By: _____
City Clerk

By: _____
Executive Director

Approved as to Form:

By: _____
City Attorney

Exhibit A- Scope of Work 2008 -2009

The City of Calexico
Community Redevelopment Agency
And
The Calexico Chamber of Commerce

The Calexico Chamber of Commerce shall comply with the following Scope of Work:

Business Retention, & Expansion

1. The Chamber will work cooperatively with City/Agency and other businesses and groups within the City/Agency to promote the City of Calexico business assistance programs such as Business Improvement Districts, Façade Improvement Program, Signage Assistance, and business start-up counseling. Chamber in partnership with the City/Agency will hold Quarterly Business Lecture meetings (at least 4 per year).
2. Chamber will work with City Manager/Executive Director's office to provide 30 joint business visitations to local businesses on an annual basis. This will allow for identification of business that may need City assistance or Chamber Member consulting services.
3. Chamber will promote business growth through ribbon cutting/groundbreakings and notification will be sent to the City/Agency through the City Manager/Executive Director's office.
4. Chamber will refer to the City Manager Economic Development Marketing Coordinator's office inquiries of businesses wishing to relocate to the Calexico area and refer business to the City of Calexico's business link on City's website.
5. Chamber agrees to provide representation when requested by City/Agency staff.
6. Chamber will provide quarterly written status reports to the City/Agency as well as a presentation before City Council at the first meeting of the following months September, December, March and June.
7. Chamber will provide a schedule for all functions and meetings of the Chamber and a listing of officers and committee members to City Communications Director.